IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 33672 of 1998

Between:

A.P.S.RT.C., Rep. by its Managing Director
Mushirabad, Hyderabad.

..... PETITIONER

AND

1 State Transport Appellate Tribunal, Rep by its Presiding Officer.
Hyd., AP,
2 Regional Trasport Authority, Rep. by its Secretary.
Kakinada, East Godavari District.
3 Smt. M. Vijaya Lakshmi, W/o Bala Krishna Sai,
D. No. 29-7-16, Lakshmivarapupeta, Rajahmundry,
E.G.District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or direction, especially in the nature of Writ of certiorari, calling for the records relating to the impugned order dt.30-3-1998 made in A.P.No.579/97, State Transport Appellate Tribunal, A.P., Hyderabad, setting aside the order in R.No. 10519/A/1/96, dt.11-3-97 of the Regional Trasport Authority, East Godavari at Kakinada and directing the Secretary, Regional Transport Authority to issue permit to 3rd respondent on the so-called town service route Anandanagar to All Bank Colony; quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR.K.HARINATH, SC FOR APSRTC

Counsel for the Respondent Nos.1 and 2: GP FOR TRANSPORT

Counsel for the Respondent No.3: SMT. M. VINOBHA DEVI

The Court made the following :

ORDER:

Aggrieved by the order of the State Transport Appellate Tribunal, A.P., Hyderabad (STAT) made in A.P. No.579 of 1997, dated 30-3-1998 setting aside the order of the Regional Transport Authority, East Godavari at Kakinada in R.No.10519/A1/96 rejecting the application of the third respondent herein seeking stage carriage permit as town service from Anandanagar, Rajahmundry to All Bank Colony, and directing the first respondent herein to issue town service permit to the third respondent on the said route, the petitioner-APSRTC filed this writ petition.

The case of the petitioner is that the third respondent made an application to the second respondent for grant of a stage carriage permit to ply as town service on the route—Anandnagar, Rajahmundry to All Bank Colony (via) Rajiv Gandhi Degree College, A.P. Paper Mills, Seethampet, Sivajyothi Theatre, G.B. Stand, Devi Chowk, Jempeta, Church Gate, Deluxe Centre, Kotipalli Bus Stand, V.T. College Stadium, R.T.C. Complex, V.L. Puram, Morampudi Junction and Bucheyyanagaram junction. The second respondent rejected the application on the ground that the route is overlapping and that it is prohibited by the approved scheme in G.O. Ms.No.761 of 1975, dated 03-6-1975. Aggrieved by the same, the third respondent filed an appeal before the first respondent in A.P. No.579 of 1997, and the same was allowed by the first respondent holding that there is no overlapping at all, as the notified route from Kovvuru to Rajahmundry is only up to Kotipally bus stand, and accordingly directed the Secretary, R.T.A., East Godavari at Kakinada to issue stage carriage permit to the third respondent. Assailing the correctness of the said order, the petitioner filed the present writ petition contending that the route in question is not determined by the Regional Transport Authority, East Godavari at Kakinada as “town service route” as contemplated under Rule 258(2) of the A.P.M.V. Rules, 1989, and therefore, the impugned order passed by the first respondent, granting stage carriage permit on the route in question, is illegal.

Heard the learned standing counsel for the petitioner, learned Government Pleader for Transport appearing on behalf of respondent Nos.1 and 2 and the learned counsel for the third respondent.

The learned standing counsel for the petitioner submitted that for the very same route in question, the third respondent herein filed another appeal in A.P. No.387 of 1998 before STAT, and the same was allowed by STAT by its order dated 22-02-1999, and aggrieved thereby, the petitioner herein challenged the said order in W.P. No.11419 of 1999, contending that as the route in question is not formulated by the Regional Transport Authority, East Godavari, Kakinada, as town service route, the impugned order passed by STAT granting stage carriage permit to the third respondent on the route in question, cannot be sustained, and this Court by order dated 14-6-2004 acceding to the said contention, set aside the order challenged therein, and allowed the writ petition.

The learned Government Pleader for Transport appearing on behalf of respondent Nos. 1 and 2, and the learned counsel for respondent No.3 submitted that the route in question has not been determined as town service route, and also conceded that this Court in W.P. No. 11419 of 1999, by order dated 14-6-2004, set aside similar order granting stage carriage permit on the very same route as it was not determined as town service route.

Inasmuch as it is submitted by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Transport for respondent Nos. 1 and 2 and the learned counsel for respondent No.3 that the route in question is not determined as town service route, and having regard to the order of this Court in W.P. No. 11419 of 1999, dated
14-6-2004, this writ petition has to be allowed. Therefore, following the order in W.P. No.11419 of 1999, dated 14-6-2004, and for the very same reasons assigned therein, the impugned order is set aside, and the writ petition is allowed. No costs.

N.V. RAMANA, J

Date: 13-4-2005

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday, the Thirteenth day of April, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, State Transport Appellate Tribunal,
Hyderabad, A.P.,
2 The Secretary, Regional Trasport Authority,
Kakinada, East Godavari District.

3 Two Ccs. to the Government Pleader for Transport, High Court Buildings,
A.P., Hyderabad (OUT).
4 Two CD copies

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